



Audit Report



OIG-04-043 (Interim Report)

GENERAL MANAGEMENT: Treasury Building and Annex Repair and Restoration Program Procurement Practices Need to be Improved

September 23, 2004

Office of
Inspector General

Department of the Treasury

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Abbreviations

ABA	Architectural Barriers Act
CO	Contracting Officer
COTR	Contracting Officer’s Technical Representative

Contents

D&F	Determination and Findings
DO	Departmental Offices
DTAR	Department of Treasury Acquisition Regulation
FAC	Federal Acquisition Circular
FAR	Federal Acquisition Regulation
FFP	Firm-Fixed Price
H.R.	House Report
IDIQ	Indefinite Delivery, Indefinite Quantity
OFM	Office of Financial Management
OIG	Office of Inspector General
PSD	Procurement Services Division
SOP	Standard Operating Procedures
TBARR	Treasury Building and Annex Repair and Restoration
TD P	Treasury Department Publication
Treasury	Department of the Treasury

*The Department of the Treasury
Office of Inspector General*

September 23, 2004

Jesus H. Delgado-Jenkins
Acting Assistant Secretary for Management

The Conference Report (H.R. 108-401) for the Consolidated Appropriations Act, 2004, directed our office to audit all Treasury Building and Annex Repair and Restoration (TBARR) Program contracts since Fiscal Year 1998. The audit is to include (1) a review of compliance with all applicable procurement laws, rules, and regulations, and the Architectural Barriers Act (ABA) of 1968, as amended; (2) a review of the scope, requirements, and cost reasonableness of the project, as well as the process for managing change orders to the original scope and design; and (3) a review of the effectiveness, efficiency, and economy of contractor operations. We are addressing these objectives in a series of audit reports.

On August 9, 2004, we issued an Interim Audit Report that discussed: (1) inadequate planning of the TBARR Program at its inception; (2) delays and increased costs due to numerous amendments of the original TBARR scope; (3) ineffective management of employee moves during TBARR construction; and (4) deficient TBARR accounting records, reconciliations, and reports. Your office has planned or taken corrective actions that are responsive to our recommendations in that report.¹

This second Interim Audit Report presents the results of our review of the TBARR Program contract files for compliance with applicable Federal and Department of the Treasury (Treasury) procurement requirements. Since December 1998, the TBARR Program Office has awarded 22 contracts for the renovation work and associated services totaling, with modifications, approximately \$155.3 million

¹ *GENERAL MANAGEMENT: Management of the Treasury Building and Annex Repair and Restoration Program Needs to Be Strengthened*; OIG-04-039 (Interim Report).

as of March 12, 2004. Fourteen (14) of the contracts are currently open; work has been completed for the other 8 contracts. We selected a sample of 5 open contracts and 4 completed contracts to determine whether the contract files adequately supported (1) the contract award; (2) interim and final evaluations of contractor performance; and (3) for the completed contracts, contract close-out actions. We also examined documentation supporting the appointment and qualifications of Contracting Officer's Technical Representatives (COTR) for all the TBARR contracts. A more detailed description of our objectives, scope, and methodology is provided in Appendix 1. A listing of the 22 TBARR contracts and the contracts tested as part of our audit is provided in Appendix 2.

At this time, we are continuing our audit of the TBARR Program Office to fully address the requirements of H.R. 108-401. Future planned work will include inspection of the renovation work, an assessment of contract and other costs charged to the TBARR appropriation accounts, and follow-up on the findings in this and our previous interim report.

Pursuant to H.R. 108-401, we will be providing copies of this Interim Audit Report to the Senate and House Committees on Appropriations.

Results in Brief

Overall, we concluded that the sampled TBARR contract awards substantially complied with the Federal Acquisition Regulation (FAR) and Treasury policy. However, we noted the following deviations from procurement requirements and sound contract administration:

- For 2 sampled contracts, Determination and Findings (D&F) memoranda supporting the type of the contract to be used did not include all required elements. For example, the findings in these memoranda lacked specificity and the applicable statutes justifying the type of contract to be awarded.
- Documentation supporting the qualifications and designations of COTRs was not maintained in the contract files as required. We

also noted extensive problems with the COTR documentation that was eventually provided for our review. Documentation supporting COTR training was also incomplete.

- Required interim and final evaluations of contractor performance were not documented in the contract files.
- The TBARR Program Office did not take action in a timely manner to close out completed contracts. For one contract, a contract modification was not issued as required when excess funds were deobligated.

We are making seven recommendations in this report to address the deficiencies in the contract files and to improve controls over TBARR procurement activities. Specifically, we recommend that (1) Determination and Findings memoranda for TBARR contracts be prepared in accordance with FAR, (2) properly executed documentation for current COTR designations are included in the contract files, (3) controls are implemented to ensure that future COTR designations are properly documented, (4) COTRs' training be documented, (5) contractor performance on existing contracts be documented, (6) procedures are implemented to document contractor performance in the future, and (7) action is taken to close out completed TBARR contracts.

In the Office of Management's September 20, 2004, written response to this report, management agreed with the findings and recommendations and provided its corrective actions taken and planned to implement the recommendations. The full text of management's response is provided as Appendix 3.

Finally, as a general observation and concern, it should be noted that several key TBARR Program Officials and other personnel have recently left Federal service. For example, the TBARR Director of Project Management retired in May 2004. Additionally, the Deputy Assistant Secretary (Organization and Change Management) and the TBARR Director, both members of the senior executive service, and a TBARR Program Office management analyst retired on September 3, 2004. As noted in our prior Interim Audit Report, there has been significant turnover in the top leadership of the Department since the TBARR Program's inception. The more

recent and direct loss of experienced personnel represents a significant risk to the successful completion of the TBARR Program activities within current anticipated timeframes and resources. Going forward, and considering that the President's Budget for Fiscal Year 2005 requested an additional \$20.3 million for the TBARR Program, the Office of Management will need to ensure qualified personnel are assigned to manage TBARR and continually monitor the program to mitigate that risk.

Background

After a June 1996 roof fire resulted in major damage to the Main Treasury building, Treasury decided to modernize the building. The TBARR Program was established in August 1998 for the purpose of (1) repairing and restoring the Main Treasury building to correct the damage caused by the roof fire, (2) restoring the historic fabric of the building, and (3) modernizing the building and its systems to comply with current codes and standards. At the same time, Treasury established the TBARR Program Office within the Office of Management to procure related services, oversee the design and construction activities, and coordinate employee moves during the construction.

Starting with emergency funding received in Fiscal Year 1996 for the fire damage, Treasury has received funding each year since, in accordance with no-year and multi-year spending plans. Through Fiscal Year 2004, Congress appropriated a total of \$225 million for the TBARR Program. From Fiscal Years 1996 through 2003, Treasury expended \$159.3 million for the TBARR Program. Expenditures during Fiscal Year 2004 totaled \$3.1 million as of May 18, 2004. TBARR interior renovation work is currently in the last phase and the TBARR project is expected to be completed in December 2005.

When the TBARR Program Office was established, it consisted of a Program Director supported by a secretary and a management analyst. The TBARR Program Office also included a procurement group. The procurement group was responsible for the following:

- Maintaining expert knowledge of procurement laws, regulations and Departmental policies to advise the TBARR Program

Director and staff of recommended courses of action in all procurement matters.

- Determining appropriate types of contracts and approving specifications and scopes of work for procurement actions to meet TBARR program needs.
- Preparing solicitation documents and determining evaluation factors.
- Planning complex negotiation strategy, meeting with bidders/offerors and negotiating terms and condition including price.
- Scheduling and conducting pre-bid and pre-proposal conferences.
- Awarding orders/contracts to the vendors whose bids or offers were most advantageous to the government.
- Entering into and executing purchase orders, delivery orders, contracts and other fiscal and legal obligating documents.
- Performing post-award contract administration responsibilities to execute contract and purchase/delivery order modifications, which alter the contracts' terms, conditions, and/or pricing agreements.
- Assessing contractor delays or failure to perform, issuing notices, showing cause letters and notices of termination, and negotiating and executing termination settlement agreements.
- Determining and terminating purchase/delivery orders and contracts when appropriate.

At the time of our audit, the TBARR Program Office had a dedicated procurement group staffed by a supervisory contracting officer (CO) and two other COs. These three individuals were detailed to the TBARR Program Office from the Procurement Services Division (PSD) of Treasury's Departmental Offices (DO). The supervisory CO and another CO had unlimited acquisition authority under the FAR.

The third CO's authority was limited to acquisitions of less than \$1 million.²

The guidance for federal acquisitions is maintained and updated through a series of regulations and policy issuances. The FAR is the primary regulation used by federal agencies in their acquisition of supplies and services with appropriated funds. The FAR is issued under the joint authorities of the Administrator of the General Services Administration, the Secretary of Defense, and the Administrator of the National Aeronautics and Space Administration, through the Administrator, Office of Federal Procurement Policy, Office of Management and Budget. In addition, the Federal Acquisition Regulatory Council periodically issues Federal Acquisition Circulars (FAC) to address amendments to the FAR. FACs supersede previously issued FAR provisions.

The *Department of Treasury Acquisition Regulation* (DTAR) implements and supplements the FAR within the Department. The DTAR is issued by Treasury's Senior Procurement Executive under the authority of the FAR and Treasury Directive 76-01, *Department of the Treasury Acquisition Regulation*. Treasury Directive Publication (TD P) 76.01 D, *Contracting Officer's Technical Representatives Handbook* (COTR Handbook), is issued by the Office of Procurement to provide Treasury personnel who are designated as COTRs with a source of basic guidance for monitoring contractor performance and for performing other contract administration duties.

² According to FAR, contracting officers can bind the government only to the extent of the authority delegated to them. A contracting officer's appointment certificate states any limitations on the scope of authority to be exercised that are in addition to limitations contained in applicable law or regulation. In determining a contracting officer's authority, the appointing official considers the complexity and dollar value of the acquisitions to be assigned and the candidate's experience, training, education, business acumen, judgment, character, and reputation.

Findings and Recommendations

Finding 1 Contract Files Did Not Always Include Required Support for the Type of Contract Selected

The FAR requires that each contract file, except for certain fixed-price acquisitions, include documentation to show why a particular contract type was selected. When required for the acquisition, the documentation, known as a “determination and findings” is to be prepared before the contract is awarded. The D&F must include enough facts and circumstances to clearly and convincingly support the contract type selected.

Based on the 9 TBARR contracts we sampled, we found that the D&Fs for the contract type for 2 contracts did not include all FAR-required elements. The D&Fs did not, for example, cite: (1) the particular circumstances, facts, or reasoning in support of the contract type selected; and (2) the statute and/or regulation upon which the D&F was based. Additionally, the 2 D&Fs were not signed by an authorized official and 1 D&F was not dated. The 2 contracts were:

- TOS-00-TBAR-01, which was an indefinite delivery, indefinite quantity (IDIQ) contract not to exceed \$863,634 for industrial hygienist services; and
- TOS-99-TBAR-08, an IDIQ contract not to exceed \$227,375 for facilities construction support services.

An example of the inadequate D&Fs, for TOS-99-TBAR-08, is provided as follows:



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

MEMORANDUM TO THE SOLICITATION FILE

SUBJECT: A-99-TBARR-07 - Construction Support Services
REF: Contract Type Determination
DATE: 16 August 1999

As a result of this solicitation, an IDIQ type contract is contemplated with a minimum ordering limit of \$2,500 (each order). This is the best type of contract since it is not known at this time what requirements will develop that will call for the need for construction support services.

Source: TBARR contract file for TOS-99-TBAR-08.

We discussed the condition described above with the TBARR supervisory CO, who disagreed with our conclusion that the D&Fs did not meet minimum FAR requirements. Nevertheless, we believe the D&Fs in question lacked sufficient details of the determination and findings, and applicable FAR requirements to support that the best business decision had been made and the contract type was in the best interest of the government. That being said, while the documentation was not sufficient, we concluded based on our review of other information in the files that the type of contract used was appropriate.

Recommendation

1. The Assistant Secretary for Management and Chief Financial Officer should ensure that Determination and Findings supporting the contract type for TBARR contracts are prepared in accordance with FAR requirements.

Management Response. Management agrees that sufficient detailed information should be included in the D&F memorandum to clearly support the type of contract that is being awarded. As such, all information required by the FAR and DTAR shall be included in the D&F memoranda as appropriate for the contract type. Prior to issuance of any solicitation, the contract file including the D&F shall be

reviewed internally by the TBARR procurement staff. As an additional measure, the TBARR procurement staff has the option to utilize the services of the Procurement Services Division (PSD) Review Board for review and concurrence on D&Fs.

OIG Comment. Management's commitment to ensure that D&F memoranda conform with FAR and DTAR requirements is responsive to the intent of our recommendation. The response refers to the PSD Review Board. According to PSD standard operating procedures, the purpose of this review board, comprised of at least three members selected from a pool of GS-15 and GS-14 contracting officers and procurement analysts, is to review certain proposed procurement actions to ensure that the actions comply with procurement requirements, reflect sound business judgment, and are in the best interest of the Government. Among matters to be reviewed by the PSD are all competitive solicitations exceeding \$500,000 and sole source awards exceeding \$100,000. We encourage management to subject TBARR Program procurement actions to this same internal control.

Finding 2

Documentation Supporting Qualifications and Appointments of Contracting Officer's Technical Representatives (COTR) Was Inadequate

The COTR is critical to ensure contracted goods and services are delivered on schedule and acceptable to the government. In this regard, the COTR furnishes technical direction, monitors the contractor, and advises the CO of the progress and any issues that impact the performance of the contract. The Department has established requirements in the DTAR to ensure that the COTR is technically qualified and properly designated to serve in this capacity. Specifically, the program office must **nominate**, in writing, the person to serve as a COTR for a contract. The program office's nomination form identifies, among other things, the individual's training and technical qualifications/experience. The CO must **designate**, in writing, the individual for the COTR assignment. The CO's designation letter includes any special COTR duties relative to the contract. The letter must be

acknowledged (signed and dated) by the COTR. For each designation, the bureau or office's chief procurement officer is to issue a Certificate of Appointment evidencing that the designated COTR has completed acquisition training. A Certificate of Appointment is valid for 3-years. The nomination form, designation letter, and Certificate of Appointment are to be maintained in the contract files.

We determined that, to date, there have been 35 COTR designations during the terms of the 22 TBARR contracts for the period covered by this report.³ In total, 12 employees served as COTRs, with most performing this function on more than one TBARR contract. We examined the contract files for the required COTR documentation. Very few of the documents were available in the files. We brought this to management's attention in April 2004 and requested the documentation. After numerous follow-up inquiries on the status of our request, the supervisory CO provided us a notebook in July 2004 which was represented to be all the COTR information we requested. We found extensive problems with the completeness of the information provided, and some of the documentation was questionable. Specifically:

- Nomination forms were not provided for 7 of the 35 COTR designations. For 18 nominations, the nomination forms were missing either the signature of a TBARR official and/or the date signed.
- Designation letters were not provided for 3 of the 35 COTR designations. For 23 designations, the designation letters were missing either the CO or COTR signature and/or the date(s) signed.
- Certificates of Appointment were not provided for 4 of the 35 COTR designations. For 19 certificates we were provided, the documentation was questionable for a variety of reasons. For example, we were provided a Certificate of Appointment dated December 16, 1998, for a COTR designation on contract no. TOS-00-TBAR-03. When we asked TBARR personnel for

³ The COTR is designated in the contract schedule at the time of the contract award. A notification is issued to the contractor if the COTR responsibilities are subsequently assigned to another individual during the contract term.

additional training documentation to support the Certificate, we were given a copy of another Certificate of Appointment for the same COTR that was dated April 1, 2000. This date was typed over another date that had been whited-out on the document copy. We later obtained an original Certificate of Appointment directly from the COTR. This Certificate was dated April 7, 2000. There were other differences between the original Certificate of Appointment and the copies provided to our auditors earlier.

We also noted that documentation was incomplete to support that designated COTRs received all required training in accordance with the DTAR. During the period covered by our audit, the minimum training requirement was 24 hours of basic acquisition training and 4 hours of procurement ethics training. Additionally, COTRs are to complete 8 hours of refresher training every 3 years.⁴ For 2 of the 12 individuals assigned TBARR COTR duties, the contract files and evidence provided by the TBARR Program Office contained no documentation that they completed basic acquisition training or refresher training. The documentation for the other 10 individuals did show they completed basic acquisition training. However, 7 of these individual should have completed refresher training during the period of their COTR appointments; the documentation provided showed that only 2 of them had completed this training. It should be noted that for 1 of these 2 individuals, the refresher training was not completed until a year after it was due. For the other individual, the documentation provided showed that the COTR completed refresher training in 1995 but completed the basic acquisition training in 2003.

Based on the above, we concluded that the TBARR Program Office did not maintain proper documentation of COTR designations in accordance with Treasury requirements. We also referred this matter to our Office of Investigations.

⁴ As of April 2004, this refresher training is an annual requirement.

Recommendations

The Assistant Secretary for Management and Chief Financial Officer should:

1. For all currently designated COTRs, ensure that the contract files include properly executed, original nomination forms, designation letters, and Certificates of Appointment. Appropriate action should be taken for contracts missing this documentation, such as re-designating the assigned COTRs and modifying the contracts accordingly.

Management Response. Management agrees that contract files should include the appropriate documentation. All memos, letters, and certifications found to be inadequate have been corrected and copies provided to the auditors. Effective April 28, 2004, COTR Certificates of Appointment are no longer required. Corrected documentation that pre-dated April 28, 2004, will be placed in the appropriate contract file. Additionally, contracts will be modified as appropriate to designate current COTRs.

OIG Comment. The corrected documentation referenced in the management response was still incomplete and in certain instances, questionable. For example, copies of 13 COTR designation letters were provided to our auditors after we first brought this matter to management's attention. None of the letters were signed by the COTR. One of the designation letters provided was for a COTR designation that we initially concluded was adequately supported—in this instance, the designation letter first provided was signed and dated by both the TBARR CO and the COTR. The second designation letter provided, however, was signed by a different TBARR CO but not signed by the COTR. Additionally, the typeset in this second letter was in a different font. Management's commitment to correct deficiencies with existing contracts as necessary to reflect current COTR designations is responsive to the intent of our recommendation. We believe that at this point, management should focus on ensuring that current designations are supported with appropriate documentation

rather than attempt to correct past problems with COTR designations if original documentation is no longer available.

2. Implement controls to ensure that going forward, required documentation of COTR designations is maintained in the TBARR contract files.

Management Response. Management accepts the recommendation to implement controls to ensure that going forward, required documentation of COTR designations is maintained in the TBARR contract files. Prior to contract award, the contract file including all required COTR documentation shall be reviewed for regulatory compliance. In addition, the TBARR procurement staff will comply with PSD's Standard Operating Procedures for COTRs which specifically require that a Nomination Memorandum including all training certificates, and the Designation Memorandum be included in the contract files.

OIG Comment. Management's commitment to ensure required documentation of COTR designations is included in the contract files is responsive to the intent of our recommendation.

3. Ensure that all COTRs complete required basic acquisition training, procurement ethics training, and as applicable, refresher training, and that it is properly maintained in the contract files.

Management Response. Management agrees that all COTRs must complete appropriate basic training and refresher training, and that training documentation will be properly maintained in the contract files. Current procedures for designating and approving COTRs include the requirement for successful completion of 40 hours of COTR training prior to designation. Additionally, COTRs are required to complete 24 hours of refresher training every 3 years. Finally, a centralized file system containing COTR information is maintained by PSD and is available in a shared drive. The TBARR procurement staff will routinely monitor the centralized file system to identify COTRs that require refresher training.

OIG Comment. According to the DTAR, COTRs are required to complete at least 8 hours of maintenance training each year, not 24 hours over a 3-year period. With this caveat, management's commitment to ensure COTR training is completed and documented in the contract file is responsive to the intent of the recommendation.

Finding 3 Written Evaluations of Contractor Performance Were Not Prepared

Information about past performance by contractors is relevant for future source selection purposes. Such information includes, for example, the contractor's record of: (1) conforming to contract requirements and to standards of good workmanship; (2) forecasting and controlling costs; (3) adhering to contract schedules, including the administrative aspects of performance; (4) reasonable and cooperative behavior and commitment to customer satisfaction; and (5) generally, business-like concern for the interest of the customer.

FACs 2001-10 and 2001-14 require agencies to prepare an evaluation of contractor performance for each construction contract of \$500,000 or more and all other contracts exceeding \$100,000 at the time the contracted work is completed. In addition, interim evaluations should be prepared as specified by the agency to provide current information for source selection purposes, for contracts with performance periods exceeding 1 year. Typically, contracts with multiple option years should have annual performance evaluations prior to exercising each option. Ordinarily, the evaluating official who prepares the report should be the person responsible for monitoring contract performance.

The TBARR contract records lacked evidence that interim (annual) or final evaluations of the contractor's performance were prepared for the nine completed and open contracts we reviewed. The supervisory CO told us that the TBARR COs discussed the contractors' performance with COTRs throughout the contract terms and before any option periods are exercised; however, these discussions were not documented. Without such written records, past performance information is not available to be considered in

future source selections involving the contractors. Additionally, decisions to exercise option periods were not adequately justified to be in the best interest of the government.

After we informed the supervisory CO about this deficiency, the CO developed a standard operation procedure (SOP) for evaluating contractor performance. The SOP, issued by the Departmental Office's Procurement Services Division in August 2004, addresses responsibilities, timeframes, and dollar thresholds for conducting and documenting these evaluations. The SOP, if implemented as described, should address this finding.

Recommendations

The Assistant Secretary for Management and Chief Financial Office should ensure that:

1. The recently issued SOP by the Procurement Services Division for preparing and documenting contractor performance evaluations is implemented by the TBARR Program Office, and that TBARR contracting officers and COTRs have been trained in the procedures.

Management Response. Management agrees that the TBARR Program Office shall implement the recently issued SOP. The TBARR COs and COTRs have reviewed and implemented the SOP. As new COTRs are designated, TBARR procurement staff will provide the SOP and offer guidance as appropriate.

OIG Comment. Management's corrective action is responsive to the intent of our recommendation

2. Contractor performance evaluations are prepared for all completed TBARR contracts and, as appropriate, for open TBARR contracts. The contract records should document the basis for the evaluations.

Management Response. Management agrees that contractor performance evaluations shall be prepared for all completed TBARR contracts and, as appropriate, for open contracts. The COTRs assigned to the TBARR contracts will follow the

requirements for completing contractor performance evaluations as documented in the SOP. TBARR COTRs will use inspection reports, summary reports, and other contract records as the basis for evaluating contractor performance.

OIG Comment. Management's planned actions, if implemented as described, are responsive to the intent of our recommendation. However, its response did not state a target date for preparing overdue performance evaluations on completed and open TBARR contracts. This action should be taken expeditiously.

Finding 4 Completed TBARR Contracts Were Not Closed in a Timely Manner

Contract close-out is a process through which a CO ensures: (1) all contracted services have been rendered or supplies delivered and accepted; (2) required evaluations of contractor performance have been completed and documented; (3) all payments and collections have been made; (4) releases from liabilities, obligations, and claims have been obtained from the contractor; (5) assignments of refunds and credits to the government have been executed by the contractor; (6) all administrative actions have been accomplished, including the settlement of disputes, protests, and litigation; determination of final overhead rates; release (deobligation) of excess funds; and disposal of property; and (7) the contract file is properly documented. As prescribed in the FAR, unless litigation is involved, completed firm-fixed price (FFP) contracts should generally be closed within 6 months. Other contract types, such as IDIQ contracts, should generally be closed within 20 months. Certain contract actions related to close-out, including the deobligation of excess funds, should be documented by a contract modification.

As of August 2004, the TBARR procurement group had not closed out any of the completed contracts we tested. As shown in the following table, these contracts were completed in 1999 and 2000.

Table 1: Contracts Ready for Close-out

Contract Number/Type	Contract Amount	Dates	
		Completed	Close-Out Due
TOS-99-TBAR-06 (IDIQ)	\$268,560	11/29/1999	7/2001
TOS-99-TBAR-08 (IDIQ)	227,375	2/15/2000	10/2001
TOS-99-TBAR-05 (FFP)	200,955	3/31/2000	9/2000
GS-35F-4461G (FFP)	38,490	4/14/2000	10/2000

Source: TBARR contract files.

Although not formally closed out, excess funds of \$1,180 for contract no. GS-35F-4461G were deobligated in July 2002 and September 2002, even though a formal contract modification was not executed for the deobligation. There were no excess funds requiring deobligation for the other 3 completed contracts.

The TBARR supervisory CO told us that the TBARR staff has not had an opportunity to close out the above contracts. The CO also stated that DO uses a contractor to assist with contract close-outs for contracts administered through the PSD. However, according to the CO, the TBARR Program Office did not use the PSD contractor because the TBARR Program did not have funds available to pay for these services.

Recommendation

1. The Assistant Secretary for Management and Chief Financial Officer should ensure that the TBARR procurement group performs the necessary actions to close out completed TBARR contracts. Additionally, controls should be established to ensure open TBARR contracts are closed out in a timely manner after the contracted goods or services have been provided, and contract modifications are properly executed to deobligate any excess funds.

Management Response. Management acknowledges and agrees that contract close-outs are required and should be performed in a timely manner. Resources have been allocated to begin close-out procedures in early October 2004 for the eight inactive TBARR contracts. The close-out process for these contracts should be completed by December 30, 2005. To ensure that appropriate controls are in place for timely close-

out of active contracts, a contract close-out schedule has been developed in accordance with FAR time frames. Management will periodically update the close-out schedule to accurately reflect contract completion dates and adjust the close-out period accordingly.

OIG Comment. Management's planned actions are responsive to the intent of our recommendation.

* * * * *

We appreciate the courtesies and cooperation provided to our staff during the audit. If you wish to discuss this report, you may contact me at (202) 927-5400 or Thomas Byrnes, Director, Procurement Audits, at (202) 927-5904. Major contributors to this report are listed in Appendix 4.

Marla A. Freedman
Assistant Inspector General for Audit

We performed this audit of the TBARR Program pursuant to H.R. 108-401. In that report, we were directed to audit all Treasury Building renovation and restoration contracts since Fiscal Year 1998. The audit objectives include: (1) a review of compliance with all applicable procurement laws, rules, and regulations, and the ABA of 1968, as amended; (2) a review of the scope, requirements, and cost reasonableness of the project, as well as the process for managing change orders to the original scope and design; and (3) a review of the effectiveness, efficiency, and economy of contractor operations. These objectives will be addressed through a series of audit reports.

This report presents the results of our review of TBARR Program contract files for compliance with applicable FAR and Treasury procurement requirements. Specifically, we tested whether the contract files contained adequate and appropriate documentation for (1) contract awards; (2) appointments and qualifications of COTRs; (3) evaluation of contractor performance; and (4) for completed contracts, close-out actions.

We reviewed applicable requirements in the FAR and related issuances, the DTAR, the COTR Handbook, and TBARR Program standard operating procedures. We also interviewed Treasury officials and personnel involved in the TBARR Program, including the contracting officers detailed to TBARR from the Departmental Offices' Procurement Services Division, COTRs, and staff with the Office of Financial Management.

As of March 12, 2004, the TBARR Program Office had awarded 22 contracts in connection with the TBARR Program. The total amount of these contracts as modified through that date was approximately \$155.3 million.^{5,6} Fourteen (14) of these contracts totaling \$153.0 million were "open," or still in progress; 8 contracts totaling \$2.3 million were completed.

For our compliance tests of contract awards, contractor performance evaluations, and close out actions on completed contracts, we selected a sample of 5 open contracts and 4

⁵ Of this amount, \$144.6 million had been obligated against TBARR Program appropriations and \$10.7 million had been obligated against other funding sources.

⁶ A total of 537 modifications have been issued for the 22 contracts as of March 12, 2004.

completed contracts, or 9 contracts in total, and examined the related TBARR Program Office contract files. In selecting this sample, we focused on dollar coverage, as well as a cross-section of contract types. The contract amounts obligated against the TBARR Program appropriations, as modified, for the 5 open contracts totaled \$121 million, or 78 percent of the universe of open contracts. Included in our sample was the prime construction contract for the interior renovation of Main Treasury in the amount of \$103.3 million, as modified. The total contract amounts obligated against the TBARR Program appropriations, as modified, for the 4 completed contracts was \$0.7 million, or 30 percent of the universe of completed contracts.

With respect to the appointment and qualifications of COTRs, we first examined the contract files for all the TBARR contracts to determine if DTAR-required documentation was present. After noting that little of the documentation was available in the contract files, we brought this to management's attention. As discussed in Finding 2 of this report, we found extensive problems with the COTR documentation.

A Procurement Analyst with the Internal Revenue Service's Office of Procurement Policy, Quality Assurance Division, assisted us in reviewing the contract documentation. This assistance was arranged through the Department's Office of the Procurement Executive. The results of the Procurement Analyst's review were considered in forming our findings and conclusions in this interim report.

We conducted our audit of the TBARR Program, and prepared this report, in accordance with generally accepted government auditing standards.

Appendix 2
List of TBARR Contracts Awarded Since 1998

Table 2: List of TBARR Contracts Awarded Since 1998

Contract Number/ Description	Status	Award Date	Contract Amount, as modified through March 12, 2004	
			Total	Obligated to a TBARR Program Appropriation
GS-11P98MYDO014I ^{(a),(d)} Inspectors, Escorts, etc.	Open	10/6/98	\$7,474,408	\$7,474,408
TOS-99-TBAR-02 ^(a) Cleaning, repointing, repairing weatherproofing the exterior building	Open	12/14/98	9,741,706	9,741,706
TOS-99-TBAR-01 ^{(a),(d)} Architect and Engineering Services	Open	12/17/98	9,097,014	8,934,414
TOS-99-TBAR-04 ^{(a),(d)} Interior Renovation	Open	02/18/99	103,303,646	103,303,646
TOS-99-TBAR-05 ^{(b),(d)} Statue Restoration	Completed	03/19/99	200,955	200,955
TOS-99-TBAR-06 ^{(b),(d)} Facilities Construction Support Services	Completed	04/12/99	268,560	268,560
TOS-99-TBAR-07 ^(b) Architect and Engineering Design Services	Completed	06/21/99	335,303	328,746
TOS-99-TBAR-08 ^{(b),(d)} Facilities Support	Completed	08/24/99	227,375	149,375
TOS-00-TBAR-01 ^{(b),(d)} Industrial Hygienist Services	Open	11/23/99	863,634	269,474
TOS-00-TBAR-02 ^(b) Construction Support	Completed	02/16/00	515,739	466,549
GS-35F-4461G ^{(c),(d)} LAN cabling support for relocations	Completed	02/18/00	38,490	38,490
GS-23F-0168K ^(c) Professional Construction Support	Open	03/29/00	4,231,686	3,626,141
TOS-00-TBAR-03 ^(a) Custodial Services	Open	04/07/00	4,355,872	58,907
TOS-00-TBAR-04 ^(b) Relocation Services	Completed	09/22/00	684,025	467,308
TOS-01-TBAR-02 ^(b) Facilities Support	Completed	11/27/00	44,860	14,586
GS-29F-0177G ^(c) Furniture	Open	6/15/01	5,822,257	5,736,742
TOS-02-TBAR-02 ^(c) Telecommunication Services	Open	09/27/01	1,004,311	1,004,311

Appendix 2
List of TBARR Contracts Awarded Since 1998

Table 2: List of TBARR Contracts Awarded Since 1998

Contract Number/ Description	Status	Award Date	Contract Amount, as modified through March 12, 2004	
			Total	Obligated to a TBARR Program Appropriation
TOS-02-TBAR-03 ^(c) Facilities Support	Open	10/30/01	3,117,588	194,899
GS-10F-0061L ^{(c),(d)} Relocation Services	Open	1/31/02	1,086,518	952,658
GS-35F-4581G ^(c) Telecommunication Support	Open	5/03/02	2,564,751	1,096,913
GS-10F-05-14N ^(c) Consulting Services for installation and implementation of Computer Aided Facility Management software	Open	8/20/03	69,577	69,577
GS-35F-5100H ^(c) CAFM Software	Open	8/22/03	195,000	195,000
Totals			\$155,243,275	\$144,593,365

Source: TBARR contract files.

- (a) - Competitively Awarded Contract
- (b) - Small Business Administration Section 8a Contract
- (c) - General Service Administration Schedule Contract
- (d) - Contract tested by OIG for compliance with FAR and/or Treasury requirements for contract award, evaluation of contractor performance, and contract close-out actions (for completed contracts).



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

SEP 20 2004

MEMORANDUM FOR MARLA A. FREEDMAN
ASSISTANT INSPECTOR GENERAL FOR AUDIT

FROM: Jesus H. Delgado-Jenkins *Jesus Delgado-Jenkins*
Acting Assistant Secretary for Management

SUBJECT: Management Response to Draft Interim Report—Treasury
Building and Annex Repair and Restoration Program
Procurement Practices Need to be Strengthened

Thank you for the opportunity to comment on your draft interim audit report concerning the Treasury Building Annex Repair and Restoration Program (TBARR). Based on your first Interim Audit Report of August 9, 2004, our office planned or took corrective actions to respond to your recommendations. This second Interim Audit presents the results of your review of the TBARR Program contract files for compliance with applicable Federal and Department of the Treasury procurement requirements. We are pleased with your findings that, overall, the sampled TBARR contract awards substantially complied with the Federal Acquisition Regulation (FAR) and Treasury policy.

With respect to your findings on other procurement requirements and contract administration, I have attached comments which address each of the findings and recommendations.

I look forward to working with your office on these and future findings. If you have any questions, please let me know, or you may contact Nick Williams, Acting Deputy Assistant Secretary for Organization and Change Management.

Attachment

Introduction

The Office of Management is pleased that the Office of the Inspector General (OIG) has concluded that the sampled TBARR contract awards substantially complied with the Federal Acquisition Regulation (FAR) and Treasury policy. This document contains our response to the OIG's Draft Interim Report entitled "General Management: Treasury Building and Annex Repair and Restoration Program Procurement Practices Need to be Improved" dated September 10, 2004. Our response addresses the Report Findings individually and includes the actions we have taken or plan to take and target dates for action, where applicable. The Office of Management, in general, accepts the recommendations made in the Report.

Finding 1: Contract Files Did Not Always Include Required Support for the Type of Contract Selected

This Finding states that the Determination and Findings (D&F) memorandums for two sampled contracts did not include all elements required by the Federal Acquisition Regulations.

Response to Recommendation: Management agrees that sufficient detailed information should be included in the Determination and Findings (D&F) memorandum to clearly support the type of contract that is being awarded. As such, all information required by Federal Acquisition Regulation (FAR) Subpart 1.704 and the Department of Treasury Regulation (DTAR) shall be included in D&F Memoranda as appropriate for the contract type. Prior to issuance of any solicitation, the contract file including the D&F shall be reviewed internally by the TBARR procurement staff. As an additional measure, the TBARR procurement staff has the option to utilize the services of the Procurement Services Division Review Board for review and concurrence on D&Fs.

Finding 2: Documentation Supporting Qualifications and Appointments of Contracting Officer's Technical Representatives (COTR) was Inadequate

This finding states that documentation supporting the qualifications and designations of COTRs was not maintained in the contract files as required. It also states that documentation supporting COTR training was incomplete.

Response to Recommendation 1: Management agrees that contract files should include appropriate documentation. All memos, letters, and certifications found to be inadequate have been corrected and copies provided to the auditors. Please note that effective April 28, 2004, COTR Certificates of Appointment are no longer required per Treasury Acquisition Circular No. 02-01. Corrected documentation that pre-date April 28, 2004 will be placed in the appropriate contract file. Additionally, contracts will be modified as appropriate to designate current COTRs.

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Response to Recommendation 2: Management accepts the recommendation to implement controls to ensure that going forward, required documentation of COTR designations is maintained in the TBARR contract files. Prior to contract award, the contract file including all required COTR documentation shall be reviewed for regulatory compliance. In addition, the TBARR procurement staff will comply with PSD's Standard Operating Procedures for COTRs which specifically requires the following documentation be included in the contract files: Nomination Memorandum including all training certificates, and the Designation Memorandum.

Response to Recommendation 3: Management agrees that all COTRs must complete appropriate basic training and refresher training, and that training documentation is properly maintained in the contract files. Current procedures for designating and approving COTRs include the requirement for successful completion of 40 hours of COTR training prior to designation (see Appendix A). Additionally, COTRs are required to complete 24 hours of refresher training every three years. Finally, a centralized file system containing COTR information is maintained by PSD and is available in a shared drive. The TBARR procurement staff will routinely monitor the centralized file system to identify COTRs that require refresher training.

Finding 3: Written Evaluations of Contractor Performance Were Not Prepared

This finding states that required interim and final contractor performance evaluations were not documented in the contract files.

Response to Recommendation 1: Management agrees that the TBARR Program Office shall implement the recently issued Standard Operating Procedure (SOP) for Past Performance. This SOP provides guidance and performance evaluation procedures using SF1420. The TBARR contracting officers and COTRs have reviewed and implemented the SOP. As new COTRs are designated, TBARR procurement staff will provide the SOP and offer guidance as appropriate.

Response to Recommendation 2: Management agrees that contractor performance evaluations shall be prepared for all completed TBARR contracts and, as appropriate, for open contracts. The COTRs assigned to the TBARR contracts will follow the requirements for completing contractor performance as documented in the SOP for Past Performance. TBARR COTRs will use inspection reports, summary reports, and other contract records as the basis for evaluating contractor performance. Performance will be documented on the SF1420.

Finding 4: Completed TBARR Contracts Were Not Closed in a Timely Manner

This finding states that the TBARR Program Office did not take action to close-out completed contracts in a timely manner.

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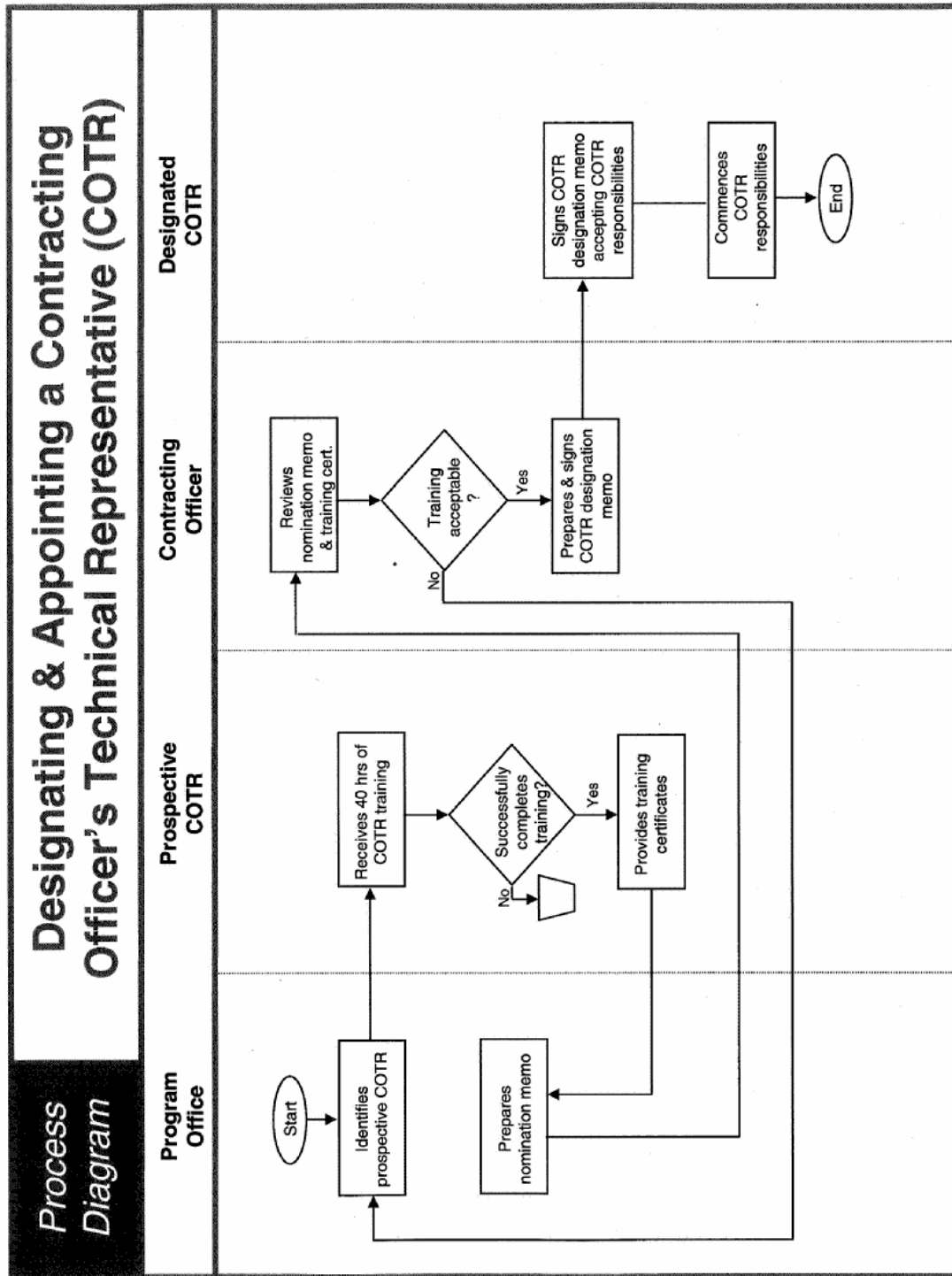
Response to Recommendation: Management acknowledges and agrees that contract closeouts are required and should be performed in a timely manner. Close-outs for the TBARR completed contracts will begin in October 2004 and be conducted in accordance with Standard Operating Procedures for Closeouts dated December 23, 2002. Resources have been allocated to begin close-out procedures in early October 2004 for the following inactive contracts:

TOS-00-TBAR-04 – Configuration
TOS-99-TBAR-05 – Professional Restoration
TOS-99-TBAR-06 – Gilford Technology
GS-35F-4416G – SAIC
TOS-00-TBAR-02 – Proteus
TOS-01-TBAR-02 – Marco Enterprises
TOS-99-TBAR-08 – Montague
TOS-99-07 – Settles & Associates

The close-out process for the above listed inactive contracts should be completed by December 30, 2005.

To ensure that appropriate controls are in place for timely close-out of active contracts, a Contract Close-out Schedule (see Appendix B) has been developed in accordance with time frames identified in FAR Subpart 4.8. Management will periodically update the close-out schedule to accurately reflect contract completion dates and adjust the close-out period accordingly.

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Appendix A

TBARR Contract Close-out Schedule

[illegible]

Office of Inspector General

Thomas E. Byrnes, Director, Procurement Audits
Delores V. Dabney, Audit Manager
Leslye K. Burgess, Auditor-in-Charge
Dwight L. Glenn, Auditor
Gerald H. Kelly, Auditor
Shaneasha Edwards, Program Analyst
Andrew J. Kirkpatrick, Program Analyst
Michael C. Sinko, Referencer
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Internal Revenue Service

Bonnie Hanger, Procurement Analyst, Office of Procurement Policy

The Department of the Treasury

Acting Assistant Secretary for Management
Acting Chief Financial Officer
Assistant Secretary for Legislative Affairs
Acting Deputy Assistant Secretary, Organization and Change
Management
Director, Office of Financial Management
Director, Office of Accounting and Internal Control

Office of Management and Budget

OIG Budget Examiner

United States Congress

House Committee on Appropriations
House Committee on Appropriations, Subcommittee on
Transportation, Treasury, and Independent Agencies
Senate Committee on Appropriations
Senate Committee on Appropriations, Subcommittee on
Transportation, Treasury and General Government